



CITY OF DELAWARE CITY

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**MINUTES  
CITY OF DELAWARE CITY  
MAYOR AND COUNCIL MEETING  
PUBLIC HEARING 6:00 p.m.  
MONTHLY MEETING 6:30 p.m.  
December 17, 2018  
DELAWARE CITY FIRE COMPANY  
815 FIFTH STREET**

**CALL TO ORDER – PUBLIC HEARING**

The Honorable Mayor Green opens the Public Hearing at 6:01 p.m. He reads the item being presented:

- 1. Second Reading & Possible Adoption of Ordinance 18-1119-01 to Amend City Code, Chapter 7 Sections 7-3 and 7-6, Relating to Trash Containers & Penalties for Violations**

City Solicitor Walton briefs Council on the terms of the Ordinance. It states trash containers to be put out 15-hours before a regular or specially scheduled collection day for trash and recycle. Containers must be removed from the street and stored out of sight within 15-hours after collection. There is an appeal provision to Council if a fine is imposed for special circumstances.

Council Member Barrett questioned if it is permissible for trash containers to be stored on the side of the building across from Sterling's, which creates an eyesore? City Solicitor Walton answered no, they must be out of sight. Vice Mayor Malinowski and Council Member Renoll said there is room in the alleyway for trash containers to be stored but not possible for a truck to get in to collect the trash.

Regarding the appeal provision, Vice Mayor Malinowski stated Council should not be approached for the appeal. It should go first to the City Manager and if not resolved then to the Board of Adjustment. Council Member Barrett agrees.

Question was raised by Council Member Barrett about if trash was overlooked at pickup time would violations be sent. City Solicitor Walton said no, that situation is covered by the statement of "*specialty scheduled hour of collection.*"

City Solicitor Walton recommended Council pass this Ordinance until next month so the changes can be added. They discussed doing a floor motion but City Solicitor Walton said it is best to wait since another level is being recommended: fines, appeal to City Manager, and/or to Board of Adjustment and the cost of convening the Board of Adjustment. Mayor Green agrees on passing the Ordinance until next month but said Council does have the right to force a floor amendment.

Mayor Green asked if there were any further questions or comments. City Manager Houck said she has received requests to have the trash pickup day changed to Tuesdays. Complaints have come in over having the trash containers sitting on the streets on a Sunday making the streets unsightly when the most visitors are in town. A discussion of the 15-hour time span and change of pickup day was found to be irrelevant.

With no further questions or comments, Mayor Green recesses the Public Hearing at 6:15 p.m.

#### **PUBLIC HEARING RE-CONVENED**

Mayor Green calls the Public Hearing back to order at 6:26 p.m. and reads Ordinance 18-1119-01 to Amend City Code, Chapter 7 Sections 7-3 and 7-6, Relating to Trash Containers & Penalties for Violations

City Solicitor Walton summarized what was discussed during the Public Hearing: trash containers are to be out of sight 15-hours after pickup; and appeal can be made under special situations; Vice Mayor Malinowski asked for that request to go to City Manager; if not resolved there go to Board of Adjustment. To include these changes Vice Mayor Malinowski was asked if a floor amendment could be made versus a written amendment. City Solicitor recommends passing until next month for the amendments to be written.

Mr. McMichael asked if he could speak. He said the trash containers are not marked so problems may arise as to whom they belong to. Mayor Green replied that Mr. McMichael's concern is noted.

Mayor Green asked for a motion to adjourn the Public Hearing. Council Member Barrett made the motion to adjourn the Public Hearing. Vice Mayor Malinowski seconded it. Public Hearing was adjourned at 6:28 p.m.

## **MONTHLY MEETING OF MAYOR & COUNCIL**

### **CALL TO ORDER**

Mayor Green calls the December 17, 2018 meeting of Mayor & Council to order at 6:30 p.m.

### **PLEDGE OF ALLEGIANCE**

Mayor Green led the Pledge of Allegiance. Mayor Green asked for everyone to remain standing for a moment of silence in respect to the recent passing of Mr. Julius E. Carter of Delaware City who passed away on November 18, 2018 at the age of 89.

### **ROLL CALL**

In attendance were Mayor Green, Vice Mayor Malinowski, and Council Members Barrett, Titus, Renoll and Konkus. Also present were City Manager Houck, Finance Manager McGinn, City Secretary Hanna, Lieutenant Kerr and City Solicitor Walton.

### **ACTION UPON FINANCE REPORT**

Mayor Green asked for a motion to accept the Finance Report for November 2018. Vice Mayor Malinowski made the motion to accept the Finance Report. Council Member Titus seconded it. Finance Manager McGinn presented the financial report as of November 30, 2018 to Council. (Full report is attached at the end of the minutes).

### **Questions/Comments from Council**

Under Code Enforcement, Council Member Konkus asked for clarification on the \$7300; was it for the part time Code Enforcer and is it from the period of January 1 to September. Finance Manager McGinn answered it is the part-time position and spans the period of July 1 to September. It was in September the full-time Code Enforcer left.

Under Sanitation Revenue, Mayor Green asked what the software problem is that needs to be corrected. Finance Manager McGinn answered there are two (2) modules that are not communicating with one another (financial module and billing/collection module). It will take approximately a day to remedy the issue

once he is able to get with Edmunds. When repaired, the two modules will then connect the correct accounts going forward.

Under General Administration Expenditure: Salaries – Mayor & Council, Mayor Green asked why it was so much. Finance Manager McGinn replied it was originally going to contain the City Secretary’s salary annually so to get a better idea on how much is spent on Mayor & Council and other positions we are breaking these down to a more transparent picture and an easier way of budgeting.

In the same category under Contractual/Professional Services Council Member Konkus asked what these are and noted it was quite a jump in cost. Finance Manager McGinn replied these are for contracted services for the upkeep of Town Hall and contractual costs for maintaining the software for Police Department’s body cams. He said he could give the Council Member a complete breakdown if she wanted. The jump in figures has a lot to do with how things were classed in the past and that info was used in the preparation of this budget. It is his intention to correct these with a budget amendment.

There were no further questions. Mayor Green commented that he had met with Finance Manager McGinn and City Manager Houck regarding how the financial statement should be laid out so everyone can understand it. He said this was a great start and he hoped next month’s statement Finance Manager McGinn would have suggestions on what needs to be done to meet our budget requirements.

The motion was made by Vice Mayor Malinowski to accept the finance report as given and seconded by Council Member Titus at the introduction. Mayor Green now asked for a verbal vote of acceptance. All Council Members were in agreement to accept the finance report.

Before moving on with the agenda, Mayor Green acknowledges the presence of Mr. Paul Johnson, President of the DCFD, Mr. Jeff Randol, Executive Director of the Fort DuPont Preservation Commission and Mr. Wally Poppe, President of the DCFD.

### **ACTION UPON MINUTES**

Council Member Titus made the motion to accept the minutes of November 19, 2018 as written. Council Member Konkus seconded the motion. There were no questions or comments. All were in favor. Minutes were accepted. Council Member Barrett made the motion to accept the minutes of November 27, 2018 special meeting as written. Council Member Titus seconded the motion. There were no questions or comments. All were in favor. Minutes were accepted.

## **POLICE REPORT**

Lieutenant Kerr presented the Police Report on behalf of Chief Baylor. Crime Statistics continue to be down in all three major categories. Traffic citations and warnings were also noted for the year to date.

The Crime Report for November included:

1. Investigation of theft of lights from the African Union Church Cemetery. Investigation lead to the arrest of a man from DCMHP and he was charged with theft and criminal mischief.
2. A fraud investigation against an elderly citizen by someone posing as a computer repairman via the telephone which lead to the alleged repairman gaining access to the elderly citizen's personal and bank information. The case is still under investigation.

Announcements:

- DCPD urges all citizens to take caution and not allow individuals access to bank accounts or provide them with any personal information online or via the telephone. There are multiple scams currently active in the area.
- DCPD reminds all residents to lock their cars when not in use.
- Delaware City Christmas Parade was rescheduled for Saturday, December 22, 2018.

There were no comments or questions for Lieutenant Kerr.

## **CITY SOLICITOR'S REPORT**

City Solicitor Walton reported the following:

- Worked on and drafted several resolutions that are on the agenda for this evening relating to the City Manager search.
- Worked on transition items for the City Manager position due to City Manager Houck's departure.
- Colleague, Chris Griffiths drafted the ordinance before Council for a first reading and assisted with the RFP for the water service.
- Colleague, Dan Stanek drafted and sent a letter regarding the police contract mentioned at the last Council Meeting. That matter remains pending.

At the conclusion of City Solicitor Walton's report he wished Mayor & Council and residents of Delaware City a safe and happy holiday.

## **CITY MANAGER'S REPORT**

City Manager Houck's report contained activities, initiatives and/or projects that impact our community:



City Manager Houck said in the anticipation of her departure, she had spent her time on the following:

- Working to bring the additional chapters of the Comp Plan up to date in advance of handing it off to the Planning Commission.
  - Intern Danielle Metcalfe has agreed to assist with this preparation
- City Manager Houck extended her sincere appreciation to Mr. Tim Dilliplane of the Planning Commission who walked throughout the town to document zoning changes for the Comp Plan. These changes have been sent to UD IPA for mapping.
- Working with Verizon to place cameras on several of their poles in town. The Community Profile Form has been completed with Chief Baylor as the contact person. This is a necessary step to achieve our goal.
- Arrangements have been made for a property survey for the DART bus shelter to be placed on Fifth Street. This shelter has been possible because of the efforts of Council Member Barrett.
- Washington Street Flood Mitigation Project:
  - Project is on schedule at this time to be completed by February if not sooner.
  - Contractor reports a delay in receiving the electrical cabinets
  - Finance Manager McGinn is up to date on the project and the funding sources to allow for a seamless transition.
  - Effort to align the projects electrical platform with an address so phone service can accommodate system reporting through an auto dialer.
  - Have worked with the contractor, our engineer and Delmarva for the installation of two pad mount transformers in the vicinity of the electric platform to ensure pump usage will not impact other customers on the same line.
    - This is being funded by Delmarva and the Delaware City Refinery
    - Chief Baylor is aware of the work that will take place in the new year and will handle the logistics
- The paving of Washington and Clinton Streets have been completed. Finance Manager McGinn is aware of the funding sources and will handle the final payments as well as the necessary funding report.
- Have worked towards to the completion of the application for the Community Environmental Project Funding (Penalty Fund) to assist in funding the needed improvements to outfall #2 along the seawall on Harbor Street.
  - If not completed in time a file with next steps will be given to Chief Baylor
- Grant in Aide has been successfully submitted and they have been advised of new contact for Delaware City

- Followed the guidelines for the City to serve as 3<sup>rd</sup> party representative associated with state funding for the DCFD all-terrain vehicle. Now waiting to be advised on how to proceed.
- Worked to finalize the billing and reimbursement for improvements made to the PAL section and common areas at the Community Center.
- Prepared the detail for the response to Fort DuPont on their signage requests.
- Prepared details associated with the three entities that currently utilize the Community Center for Council's consideration and future action.

Lastly, City Manager Houck stated she had met with Chief Baylor and went over files on items that are both pending and ongoing including:

- Transfer of detail for accounts, sign-ins changed and contact outreach including the bank, etc.
- Handling of State of Delaware Salt orders
- Requirements for Cutting Edge to be trained on matters related to the new pumps
- Charter change for Lodging Tax item for the new legislative session. Reminder sent to Senator Poore.
- Number of other files is being left with notes, contact details, etc.

City Manager Houck closed with expressing her gratitude to all for her time here and wished everyone a safe and happy holiday.

Council Member Konkus asked if the final cost for the paving was in. City Manager Houck replied yes, it came in on budget. There was an additional cost on Harbor Street for the area that would have been completed by the Flood Mitigation project when that is completed but determined to do it now to prevent erosion of the road. The Street Funding money paid this for.

Mayor Green asked if there were additional cost to incur going forward. City Manager said just on Harbor Street but it was funded separate from the grant money. \$4800 of Street Fund was used.

Council Member Konkus asked if there is a warranty on the work if the road cracks over the winter. City Manager said the no the roads were inspected by Duffield and determined to be in order. Mayor Green added there is no sign off on the project.

Mayor Green extends best wishes to City Manager Houck on her new position and wishes her and her family a happy holiday.

#### **APPOINTMENT ANNOUNCEMENTS/COMMUNICATIONS**

Mayor Green asked for a motion to reappoint Mr. Tim Dilliplane to the Board of Ethics for a 3-year term. Council Member Titus made the motion to accept Mr.



Dilliplane's reappointment to the Board of Ethics. Vice Mayor Malinowski seconded the motion. Roll call vote was taken resulting in all ayes. Mr. Dilliplane was reappointed.

Mayor Green asked for a motion to reappoint Mr. Ray Fruityer to the Board of Ethics for a 3-year term. Vice Mayor Malinowski made the motion to accept Mr. Fruityer's reappointment to the Board of Ethics. Council Member Titus seconded the motion. Roll call vote was taken resulting in all ayes. Mr. Fruityer was reappointed.

### **ANNOUNCEMENTS/COMMUNICATIONS**

Mayor Green stated the position for City Treasurer is open and if any interest in serving please contact him or the City Manager.

### **REPORTS OF COMMISSIONS, COMMITTEES AND ORGANIZATIONS**

#### **Delaware City Fire Company:**

Mr. Paul Johnson, President

- Both he and Chief Wally Poppe were re-elected to their offices in the recent election.
- The involvement of the men and women of DCFD in the County and State fire shows the level of commitment to the service. In 2020 7-members of the DCFD will serve in various offices; 3 people will serve as President at the same time.
- December 22<sup>nd</sup> a memorial service for Michele Smith will be held at the engine bay with light refreshments.

Mr. Johnson thanks City Manager Houck for all she has done while City Manager. He wished everyone a happy and safe holiday and a prosperous 2019

Mr. Wally Poppe, Chief extended his thanks to City Manager Houck for her prompt attention in assisting with the State Legislatures in getting the all-terrain vehicle for DCFD.

#### **Main Street – Mr. Tim Konkus, President**

- The combination of Small Business Saturday and the arrival of Santa was very successful despite having to change the date due to the weather. Police Department estimated 750 to 1,000 people attended.
  - Thanks to Lynn Dilliplane of Studio 118 for the professional job on the photos with Santa. She took twice the number from last year in half the time.
  - Thanks to the Police and Fire Departments for their assistance.
  - Special thank you to the sponsors: The Honorable Mayor Green, Pampered Pets, Delaware City Marina, Crabby Dicks and the Delaware City Refinery.
- Engineering has begun on the boundary trail around Fort DuPont, which is a part of the eco-tourism plan.

- The Planning Commission for the New Castle County Bike Trails is working on integrating all the trails.
- Attended the 7<sup>th</sup> Coastal Zone Advisory Board. Resident's input is very important.
- Holiday Parade will line up at 4<sup>th</sup> & Canal and step off at 6 p.m. on Clinton Street to Harbor Street and out Washington Street

Mr. Konkus wished City Manager Houck all the best and Merry Christmas to all.

### **OLD BUSINESS**

#### **1. Second Reading & Possible Adoption of Ordinance 18-1119-01 to Amend City Code, Chapter 7 Sections 7-3 and 7-6, Relating to Trash Containers & Penalties for Violations**

Mayor Green asked for a motion to accept this ordinance. Vice Mayor Malinowski made the motion to accept. Council Member Titus seconded it.

Discussion followed on several points. Vice Mayor Malinowski said he would like to see it amended to have the appeal go to City Manager and not Council, if not able to resolve with City Manager to proceed to the Board of Adjustment. Council was asked their thoughts on this. Council Member Barrett agrees with changing it to go to City Manager but does not see why on to Board of Adjustment. Vice Mayor Malinowski replied to have it go to another level of appeal but it could stay with City Manager. City Solicitor Walton agreed it needs a second level for appeal. It was then suggested the second level be the Planning Commission, which City Solicitor Walton agreed was good.

Mayor Green then asked for an amended proposal. Vice Mayor Malinowski made the amended proposal that *the appeal would be to City Manager and if not resolved go to the Planning Commission for final disposition.*

Council Member Konkus asked what happens to the residents in the historic district who cannot find places to put the cans; what is the vision for them? City Solicitor Walton replied there is an appeal provision for unfair circumstances. During the Public Hearing it was brought up that there is an alleyway that can be used. According to the ordinance, the cans must be "out of sight" within the 15-hour timeframe. City Solicitor Walton said it is his recommendation to pass this ordinance until the next meeting to have these revisions put in.

Council Member Titus followed up on Mr. McMichael's concern of knowing what resident cans belong to. She asked if that could be addressed and added to the amendment.

Mayor Green said in all fairness he believes this should be tabled until next month when during the Public Hearing the Planning Commission may have input and all the suggested amendments can be written. Council Member Konkus

made the motion to table the ordinance until next month. Council Member Titus seconded it. A verbal vote was taken with all Council Members in favor. Mayor Green asked Mr. Dilliplane to please be in attendance for the next meeting.

## **NEW BUSINESS**

### **1. Certification of the Third Quarter Supplemental Tax Assessment for Fiscal Year 2019**

Mayor Green asked what needs to be done. City Manager Houck said just accept it. New Castle County has certified these changes in the property assessment. Motion to accept was made by Council Member Barrett. Vice Mayor Malinowski seconded it. The Council Members responded all ayes via a verbal vote.

### **2. Resolution 18-12-17-01 to Appoint David Baylor as Acting City Manager**

City Solicitor Walton describes the resolution. Mayor Green highlights certain provisions made for Chief Baylor to be Acting City Manager such as: it will be for a period of 90 days and then he returns to his position as Chief of Delaware City Police Department. Mayor Green also stated that Chief Baylor could if he desired apply for the City Manager's position.

Council Member Titus made the motion to appoint David Baylor as Acting City Manager. Council Member Barrett seconded it. A roll call vote was taken with all ayes in response. Motion carried.

### **3. Resolution 18-1217-02 to Establish a City Manager Search Committee**

Mayor Green recalled the last process for the search and selection. He believed it was well done and would like to proceed in like manner now. He said his involvement would only be at the end when he would introduce candidates to Council.

Council Member Konkus had a question on #4 about how the Committee will determine salary, benefits, job description and final contract. She recalled last time Council was not consulted or asked for any assistance. City Solicitor Walton said the contract had been brought to Council and changes were made. Mayor Green added the pay scale was predicated on experience, salary level from before and educational background.

Vice Mayor Malinowski made the motion to accept the resolution to establish a City Manager Search Committee. Council Member Titus seconded it. Roll call vote was taken resulting in all ayes. Motion carried.

**4. Resolution 18-1217-03 to Authorize the City Solicitor's Office to Advertise, Disseminate, and Collect Information for the City Manager Vacancy**

City Solicitor Walton summarized the resolution pulling out several items of importance: 90 day time frame for the search; same recruitment process as before; and sending out job description to all outlets used before. After City Solicitor Walton explained the criteria, Mayor Green adds it is requested a candidate have 5-years' experience as a City Manager or some criteria that would lend itself to someone running a city. City Solicitor Walton adds the 5-years' experience is preferred but not required. Council Member Titus commented that would help in eliminating everyone from applying.

Vice Mayor Malinowski made the motion to authorize the City Solicitor's office to advertise, disseminate, and collect information for the City Manager vacancy. Council Member Barrett seconded it. A roll call vote was taken resulting in all ayes. Motion carried.

Mayor Green began to mention a memo each Council Member had received to go into Executive Session after the current agenda was completed. The memo could then be discussed. He explained the applicable rules for doing so. Council Member Barrett made the motion to enter into Executive Session after all the Mayor & Council business is completed. Vice Mayor Malinowski seconded it. Roll call vote was taken resulting in all ayes.

**5. Discussion of Signs in the HPR District**

City Solicitor recuses himself from this discussion since he is also Council to the HPR. City Manager Houck takes the podium and opens the discussion. She said the review of the signs at Fort DuPont became necessary when a Council Member advised her of having received complaints about some of the signs that were placed.

City Manager Houck engaged the Rockwell Representative and the Executive Director, Mr. Randoll to gain understanding of the signage and advise them to put in a permit before future placement. They now understand that. City Manager met with several Council Members regarding this issue and then met with Mr. Randoll on how they could adhere to our code. The recommendations didn't meet their needs. Mr. Randoll submitted a letter on December 9<sup>th</sup>. He is here tonight to present his concerns to you on this issue.

Vice Mayor Malinowski said this goes back to when we created the HPR district. The Sign Ordinance was amended to accommodate the creation of the HPR (mixed use zoning district) the HPR was slotted in the Residential-zoning district. The signs permitted in the Residential zoning district are not appropriate for a missed use-zoning district.

Vice Mayor Malinowski would like to see City Solicitor Walton draft a sign ordinance amendment to create a separate section for HPR zoning district that will take the HPR out of the residential sign regulations and put it in its own district. Permitted signs in the HPR zoning district are to be consistent with permitted signs in existing zoning districts. For example:

- HPR – Residential: Signs as permitted in existing residential districts
- HPR – Commercial: Signs as permitted in existing commercial districts.

Council Member Konkus said she agrees it should have its own district. Does this mean Planning and Zoning have to be involved to put business district in certain zone and residential in certain zone or has that already been done?

Council Members agreed to Mayor Green's request to have Mr. Jeff Randol come forward to answer questions. Council Member Konkus and Mr. Randol discussed the zoning districts breakdown and defining the sections of the zones; i.e. commercial light marine, commercial marine, commercial general. Vice Mayor Malinowski said those designations exist in the code now. Each property stands on its own for what it is used for and that usage will determine the signs.

City Solicitor Walton returns and asked what process will there be to put this together? The motion on the floor is as follows:

Vice Mayor Malinowski made the following motion: *A motion asking City Solicitor to draft a sign ordinance amendment to create a separate HPR zoning district. Permitted signs in the HPR zoning district are to be consistent with permitted signs in the zoning district.* Council Member Titus seconded the motion. A roll call vote was taken resulting in all ayes. The motion carried.

#### **6. Discussion of Library Rental Agreement**

#### **7. Discussion of Reedy Point Players Rental Agreement**

Mayor Green asked Council to table the rental agreements at this time for discussion next month. A verbal vote was taken resulting in all ayes. The discussions of the agreements were tabled.

#### **8. Introduction & First Reading Ordinance 18-1217-01 Relating to Updating Chapter 46-147 Schedule of Fees**

City Manager Houck told Council this is a result of a review of our fees and comparing them to other entities. Discussing this with the Code Enforcement Officer and Building Inspector was determined to be in the best interest of Delaware City and fall within ranges of what other entities charge.

1. Mayor Green asked if there is a motion to accept this ordinance in first reading and introduction. Roll call was taken resulting in all Ayes. Mayor Green said the record reflects the Introduction and First Reading of Ordinance 18-1217-01 Relating to Updating Chapter 46-147 Schedule of Fees has been accepted in title and abstract only. A

Public Hearing will be scheduled for the January 2019 meeting of Mayor & Council.

**MAYOR & COUNCIL COMMENTS**

Council Member Barrett – no comments

Vice Mayor Malinowski – attended the Fort DuPont meeting

Council Member Titus – Turkeys were handed out with the Lions Club

Council Member Renol – no comments

Council Member Konkus – no comments

**CITIZENS COMMENTS**

Tim Dilliplane, 118 Clinton Street brought to Council's attention the cast iron access plates have not been replaced after the paving. City Manager answered the gas company is aware and waiting on the contractor. The electric has been done.

Allen Williams, 403 Hamilton Street extended his best wishes to City Manager Houck. He complimented Mayor & Council and Town Hall gals on doing a great job.

Gail Wagner, 250 5<sup>th</sup> Street, Reedy Point Players have completed their 2018 season. The movie shot here received the LBG T award. A film will be debuting in California with actors from here. Next play will be an autobiographic play of a cancer survivor.

**EXECUTIVE SESSION**

Council Member Barrett made the motion to move into Executive Session. Vice Mayor Malinowski seconded it. Roll call vote was taken resulting in all ayes. Mayor & Council was recessed at 8 p.m. for Executive Session.

**ADJOURNMENT**

Mayor Green reconvened the Mayor & Council Meeting at 8:25 p.m. The motion to adjourn was made by Council Member Barrett and seconded by Council Member Konkus. All were in favor. Meeting was adjourned at 8:27p.m.

Respectfully submitted,

*Bonnie Lynn Hanna*

City Secretary